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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/010,671

11/30/2001

Richard J. Procyk

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05/24/2004

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT

PAPER NUMBER

2653

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/010,671

Applicant(s)

PROCYK ET AL.

Examiner

Aristotelis M Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### ***Claim Objections***

Claims 3-6 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. These claims are not drawn to any further apparatus limitations – parent claim 1 is apparatus. As far as the claims recite positive limitations the following art rejections are made.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 7- 8 and 12 are rejected under 35 U.S.C. 102(e) as anticipated by Smyers ('859), or alternatively under 103 (a) as being obvious over Smyers in view of Haines et al. Smyers is the US equivalent of the WO document cited by applicants. The WO document can also be relied upon under 102 (a) against the claims. The examiner will focus on the US document.

Claim 7 is drawn to a method of accessing a disc drive, contrast with a method of accessing a media storage device of claim 1 and the disc in claim 10 in the Smyers reference. The examiner equates the two, i.e., in order to access a disc media certain elements are necessary, such as those further mentioned in the present claim (disc and a head radially accessing the record). Hence the examiner concludes that such elements (although not specifically part of the claim) are met by the Smyers reference.

The two positively recited steps (a) and (b) as presented are met by the Smyers reference, which appropriately access the data stream from the record in accordance with appropriate command protocols.

The wherein clause is interpreted as a desired result/feature of the information as it is recorded onto the disc. Since Smyers has both types of accessing protocols (AV and SBP-2) both types of data files located on the disc is inherently present. The sandwiching of data requiring SBP-2 accessing protocols between data requiring AV accessing protocols is nothing more than an expedience in placing the data files.

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Alternatively, if applicants' can convince the examiner that such is not inherently present in Smyers then the examiner would rely upon Haines et al for 103 requirements.

Haines et al in figure 4 and its description indicates that upon the record medium, various types of data can be appropriately placed, a/v and computer data – see the description of this figure.

It would have been obvious to modify the base system of Smyers with the above additional teachings from Haines et al to record both av and computer programs/data files onto a record medium.

The placement of the data files between av files is considered merely one of a plurality of alternative structures, i.e., data files first, av files subsequently, or vice-versa, or intermingled as desired.

With respect to claim 8, because the protocols in the Smyers reference are that of av, sbp-2, this claim is met.

With respect to claim 12, obviously the av file is on the record/stored on the disk as required by claim 12 and hence this claim is met.

2. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 7,8 and 12 above, and further in view of Suzuki et al.

Such offsets are also found in the av/c protocols as further taught by Suzuki et al – see discussion with respect to conventional protocol D with respect to figure 24 and its description which meet the limitations of claim 9.

It would have been obvious to modify the base system of Smyers/Haines et al as relied upon in paragraph 1 above with the additional protocol D as recognized by Suzuki et al, motivation is to use existing protocols for their inherent abilities –i.e., such protocols have such features already present, and using existing protocols saves time in creating new protocols with the same features.

3. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 9 above, and further in view of Born.

The ability of having appropriate offset parameters – beginning, end, which the examiner interprets as the address offset taught by Born, see the description with respect to read (10) CDB disclosure and the offset with respect to the address information.

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It would have been obvious to modify the base system of Smyers/Haines et al/Suzuki et al with the additional address offset ability motivation is to properly point to the next/address of the information being accessing.

4. Claims 1,2, and 6 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Fung et al further considered with Ando et al.

Fung et al discloses a processor/disk controller for appropriate controlling a disk drive –see fig 13 – digital av box with appropriate IEC 61883 & SBP-2 protocols and the ISO 1883 protocols. The examiner interprets the drive hardware includes both a head radially actuated and the disk.

Fung et al also provides for a digital DVD, which the examiner interprets as meeting the limitation of having both isochronous partitions (files), and asynchronous partitions (files).

The ability of having files sandwiched/interspersed between other files is taught by Ando et al, *see fig. 18B.*

It would have been obvious to modify the base system of Fung et al with the additional interspersing teaching from Ando et al, motivation is to permit a recording of both digital and analog information and hence increase the overall flexibility of the disc by permitting it to have both types of data thereon.

5. Claims 1,2, and 6 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Smyers further considered with Ludtke et al ('702).

Claim 1 is drawn to analogous apparatus limitations, i.e., a head which radially accesses the record medium and a controller for reading/writing data onto the disc.

Although Smyers does not specify the radially accessing of the disc by a head, such elements in the DVD arts (especially dynamic systems) need to appropriate access the record medium radially. Furthermore, these systems provide for controllers/microprocessors, which perform the read and write function. This is further elaborated upon/taught by the Ludtke et al ('702) reference.

It would have been obvious to modify the base system of Smyers with above teaching from Ludtke et al; motivation is to provide a physical system/apparatus for performing the method of Smyers.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1,2 and 6 as stated in either paragraphs 4 or 5 above, and further in view of Suzuki et al.

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Such offsets are also found in the av/c protocols as further taught by Suzuki et al – see discussion with respect to conventional protocol D with respect to figure 24 and its description which meet the limitations of claim 9.

It would have been obvious to modify the base system of either Smyers/Ludtke et al ('702) (paragraph 5 above) or Fung et al/Ando et al (paragraph 4) with the above protocol of Suzuki et al, motivation is to use existing protocols and save valuable resources in redesigning existing offsets.

11. Claims 4 & 5 are rejected under 35 USC 103 (a) as being unpatentable over the art as applied to claim 3 as stated in paragraph 10 above further in view of Born.

The ability of having appropriate offset parameters – beginning, end, which the examiner interprets as the address offset taught by Born, see the description with respect to read (10) CDB disclosure and the offset with respect to the address information.

It would have been obvious to modify the base system of either that specified in paragraphs 8 or 9 above with the additional address offset ability in Born, motivation is provide for appropriate addressing information for accessing the files.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicants Hedlund, Hui, Misono et al and the Colligan disclosure composite disc's in this environment, a/v/ computer data, etc. Smyers –('844) and Ludtke et al ('937), Hayashi for other iso and async chronous communication systems. Kawamura, Nakamura (see figure 31, node 10) for composite a/v and computer systems. Kwon et al for av/c and sbp-2 protocols.

**Hard copies of the application files are now separated from this examining corps; hence the examiner can answer no questions that require a review of the file without sufficient lead-time.**

**Any inquiries concerning missing papers/references, etc. must be directed to Group 2600 Customer Services at (703) 306-0377.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos  
Primary Examiner  
Art Unit 2653



AMP